

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE COMPANY,)	CIVIL ACTION
)	No. 96-10804-DPW
Plaintiff,)	No. 1:04-CV-10648-DPW
)	[Abarca Bostik]
v.)	No. 1:04-CV-10649-DPW
)	[Alwell Asbestos]
)	No. 1:04-CV-10668-DPW
THE BLACK & DECKER CORPORATION,)	[Maritime Asbestos]
BLACK & DECKER, INC., BLACK & DECKER)	No. 1:04-CV-10669-DPW
(U.S.) INC., EMHART CORPORATION, and)	[Maritime Hearing Loss]
EMHART INDUSTRIES, INC.,)	No. 1:04-CV-10676-DPW
)	[Pennsylvania Benzene]
Defendants.)	No. 1:04-CV-10670-DPW
)	[Medway]
)	No. 1:04-CV-10665-DPW
)	[PAS Fulton]
)	No. 1:04-CV-10675-DPW
)	[PAS Oswego]

**BLACK & DECKER’S MOTION FOR AN AWARD OF PREJUDGMENT
INTEREST REGARDING THE ABARCA BOSTIK, ALWELL ASBESTOS,
MARITIME ASBESTOS, MARITIME HEARING LOSS, PENNSYLVANIA
BENZENE, MEDWAY, PAS FULTON AND PAS OSWEGO CLAIMS**

Black & Decker moves for an award of prejudgment interest pursuant to M.G.L. c. 231, § 6C for the Abarca Bostik, Alwell Asbestos, Maritime Asbestos, Maritime Hearing Loss, Pennsylvania Benzene, Medway, PAS Fulton and PAS Oswego claims (“the claims”). In support, thereof, Black & Decker states:

1. Black & Decker has established, following the filing of summary judgment motions, the duty of Liberty Mutual to defend the claims.
2. Black & Decker is entitled to a judgment in its favor concerning Liberty Mutual’s duty to defend the claims, or, at least the same recovery as if judgment had entered on the record.

3. In accordance with Massachusetts law, Black & Decker is entitled to pre-judgment interest. To the extent Massachusetts law does not apply, Black and Decker is entitled to prejudgment interest under applicable Connecticut or Maryland law.

4. The basis of this motion is set forth in greater detail in the memorandum in support of this motion, filed herewith and incorporated herein.

REQUEST FOR ORAL ARGUMENT

5. Black & Decker believes that oral argument may assist the Court in its consideration of this motion and requests an opportunity to be heard in connection with the motion.

Respectfully submitted,

/s/ Jack R. Pirozzolo
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Dated: November 2, 2004